

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CRIMINAL NO. 09-40069-GPM-01
)	
)	
DAVID N. BARNES,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

Represented by the Office of the Federal Public Defender, Mr. Barnes moved for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2), the Fair Sentencing Act of 2010, and in light of *Dorsey v. United States*, 132 S.Ct. 2321 (2012) (Doc. 738). When he was sentenced, the Court adopted the findings of the presentence investigation report, which found Mr. Barnes's relevant conduct to be 5,645.15 grams of crack cocaine, 83.9 grams of heroin, and 10 kilograms of powder cocaine, equaling 22,241.9 kilograms of marijuana equivalents (Doc. 554). The Court found a base offense level of 36, a total offense level of 35¹ and a criminal history category of VI, with a resulting guideline range of 292 to 365 months (Doc. 662). Mr. Barnes was sentenced to 300 total months imprisonment. Over five thousand grams of crack cocaine yields the same guideline range now as it did when Mr. Barnes was sentenced. § U.S.S.G. 2D1.1. His guideline range has, therefore, not changed. He is not eligible for reduction of his sentence. *See United*

¹ After a three level reduction for acceptance of responsibility and a two level increase for possession of a dangerous weapon in commission (Docs. 554, 623).

States v. Taylor, 627 F.3d 674, 676 (7th Cir. 2010) (“Relief under the statute [18 U.S.C. § 3582(c)(2)] is not available when a retroactive amendment ‘does not have the effect of lowering the defendant’s applicable guideline range.’” *citing* United States Sentencing Guideline § 1B1.10(a)(2)(B)). Defendant’s motion is **DENIED**.

IT IS SO ORDERED.

DATED: October 9, 2013

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge